

**MEMO ENDORSED****CLARK, GAGLIARDI & MILLER P.C.**

ATTORNEYS &amp; COUNSELORS AT LAW

THE INNS OF COURT

99 COURT STREET

WHITE PLAINS, NEW YORK 10601-4265

(914) 946-8900

CLARK &amp; CLOSE (1907)

ROBERT Y. CLARK (1907-1961)

FRANK M. GAGLIARDI (1920-1980)

LEE PARSONS DAVIS (1957-1961)

ELBERT T. GALLAGHER (1974-1977)

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FAX (914) 946-8960

HENRY G. MILLER  
 LAWRENCE T. D'ALOISE, JR.  
 LUCILLE A. FONTANA  
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 JOHN S. RAND  
 DENISE LIOTTA  
 SARAH J. EAGEN  
 LYNN S. ROSENTHAL

*The Status Conference Scheduled for  
 Dec. 18, 2012 at 10:30 am is converted  
 to a pre-motion conference. Opposing  
 Counsel is directed to submit a response  
 in writing (not to exceed 3 pages) by  
 SO ORDERED: Dec. 14, 2012.  
 Dated: 12/12/12*

HON. EDGARDO RAMOS  
 UNITED STATES DISTRICT JUDGE  
 December 7, 2012

Via Fax (914) 390-4298

Hon. Edgardo Ramos  
 United States District Judge  
 United States Courthouse

Re: *Femmel v. Elevado et al*  
11 CIV 3091 - CS (ER)

Dear Judge Ramos:

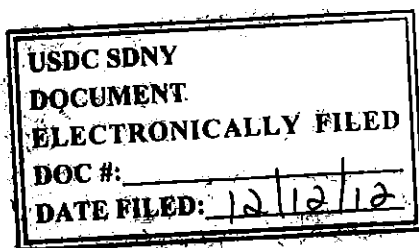
This office represents the plaintiff, Paul C. Femmel, in regard to the above matter.

There is a conference scheduled before Your Honor on December 18<sup>th</sup>, 2012.

The purpose of this letter is to advise Your Honor that at the conference we would like to discuss the issue of the plaintiff moving for summary judgment.

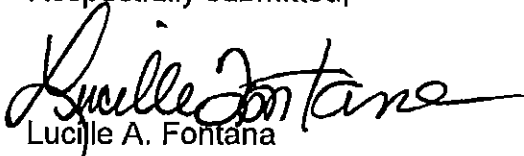
This automobile accident occurred on February 3, 2009. At that time, Mr. Femmel was operating his 2002 Freightliner Van southbound on State Route 9, in Phillipstown. The defendant, Mr. Elevado, was operating his 2004 Dodge pickup truck in the northbound on State Route 9 when he crossed over into Mr. Femmel's lane sideways causing a t-bone collision that totaled both vehicles and caused injury to Mr. Femmel.

Attached for Your Honor's convenience is a copy of the Police Report.



We further wanted to advise Your Honor that the parties had two mediation sessions with Hon. George A. Yanthis and while some progress was made toward settlement we were not able to resolve the matter.

Respectfully submitted,



Lucille A. Fontana

LAF/ad

CC:

Via facsimile (914) 285-8510

Christopher R. Ingrassia, Esq.

LAW OFFICE OF THOMAS K. MOORE

Page 1 of 1 Pages

Local Codes

SP3K43000169

AMENDED REPORT

DMV COPY

New York State Department of Motor Vehicles  
POLICE ACCIDENT REPORT  
MV-104A (6/04)32 905 907 544 526  
32 905 907 544 52619  
19

Accident Date		Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/>
Month	Day	Year					Accident Reconstructed <input type="checkbox"/>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
02	03	2009	Tues	13:58	2	3			

VEHICLE 1 ☐ VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 1 - Driver License ID Number 263524644 State of Lic. NY VEHICLE 2 - Driver License ID Number 016705335 State of Lic. CT

Driver Name - exactly as printed on license ELEVADO, MAURO B FEMMEL, PAUL C

Address (Include Number & Street) PO BX 308 6 GRAND ST Apt. No.

City or Town BEACON State NY Zip Code 12508 City or Town DANBURY State CT Zip Code 06810

Date of Birth Month Day Year Sex Unlicensed No. of Occupants Public Property Damaged  
01 20 1933 M ☐ 4 ☐ 01 25 1963 M ☐ 1 ☐

Name - exactly as printed on registration ELEVADO, MAURO B COMMERCIAL INSTRUMENT, ALARM Sex C Date of Birth Month Day Year

Address (Include Number & Street) PO BX 308 2 SUMMIT CT 306 Apt. No. Haz. Mat. Code Released

City or Town BEACON State NY Zip Code 12508 City or Town FISHKILL State NY Zip Code 12524

Plate Number CTX5313 State of Reg. NY Vehicle Year & Make 2004 DODG Vehicle Type PICK Ins. Code 351 Plate Number BGG5832 State of Reg. NY Vehicle Year & Make 2002 PRHT Vehicle Type VAN Ins. Code 226

Ticket/Arrest Number(s) 3K4301JOSP 3K4301JISP Ticket/Arrest Number(s)

Violation Section(s) 1180E 1128D Violation Section(s)

Check if involved vehicle is: ☐ more than 95 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overweight permit.

VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes

VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes

Vehicle By RODAK'S Towed: To RODAK'S

Vehicle By RODAK'S Towed: To RODAK'S

VEHICLE DAMAGE CODING: 1-13. SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER

Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.

See the second page for the accident diagram

Cost of repairs to any one vehicle will be more than \$1000. ☐ Unknown/Unable to Determine ☒ Yes ☐ No

Reference Marker Coordinates (if available) Latitude/Northing: 590717 Longitude/Easting: 4585803

Place Where Accident Occurred: County PUTN ☐ City ☐ Village ☒ Town of PHILLIPSTOWN, TOWN OF

Road on which accident occurred ROUTE 9 (Route Number or Street Name)

at 1) intersecting street (Route Number or Street Name)

or 2) .25 ☐ N ☐ S ☐ E ☐ W of INDIAN BROOK (Milepost, Nearest Intersecting Route Number or Street Name)

Accident Description/Officer's Notes

V1 TRAVELING N/B ON STATE ROUTE 9. V2 TRAVELING S/B ON STATE ROUTE 9. V1 LOST CONTROL OF THE

VEHICLE AND SLID INTO THE S/B LANE SUBSEQUENTLY BEING STRUCK BY V2 IN THE PASSENGER SIDE DOOR

USE COVER SHEET

Names of all involved Date of Death Only

A 01 1 4 1 76 M - - - ELEVADO, MAURO B

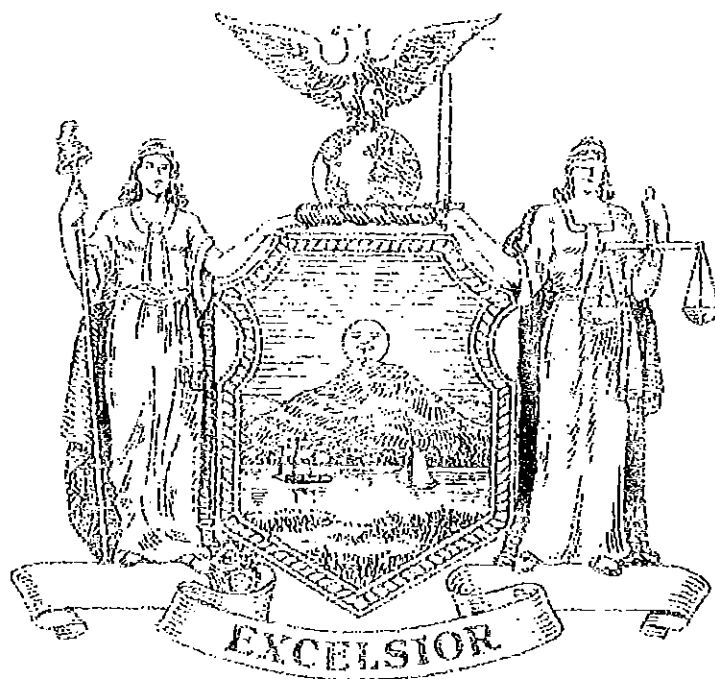
B 02 1 A 1 46 M 4 4 6 9993 5908 FEMMEL, PAUL C

C 01 3 A 1 71 F 12 12 6 9993 1307 ELEVADO, ADORACION

D 01 6 4 1 71 F X 12 6 9993 1307 BOYER, GLORIA

E 01 4 4 1 53 F - - - REYES, ESTEFANY

Officer's Rank and Signature Trooper M. K. S. Badge/ID No. 1187 NCIC No. 15902 Precinct/Post Troop/Zone K3 Station/Beat Sector 31 Reviewing Officer Nielson, Mark A Date/Time Reviewed 02/08/2009 11:01

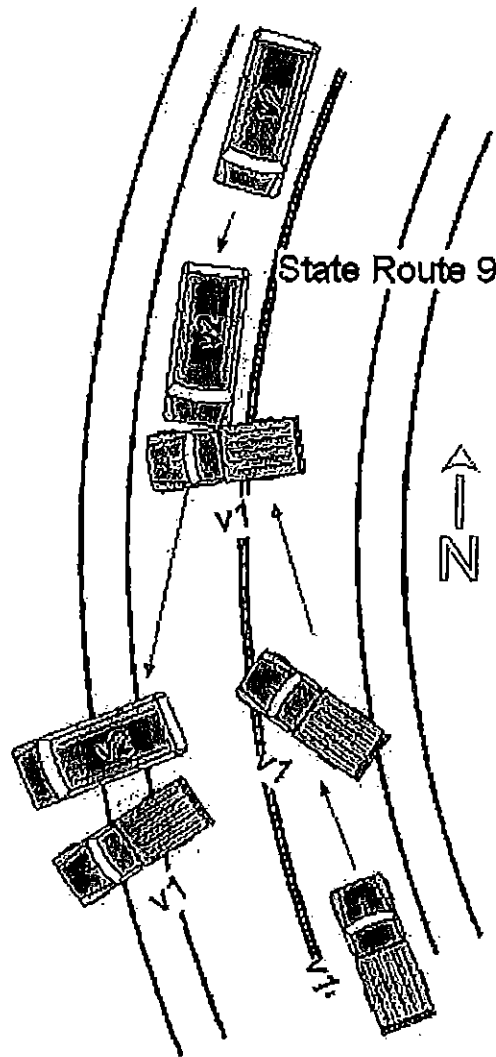


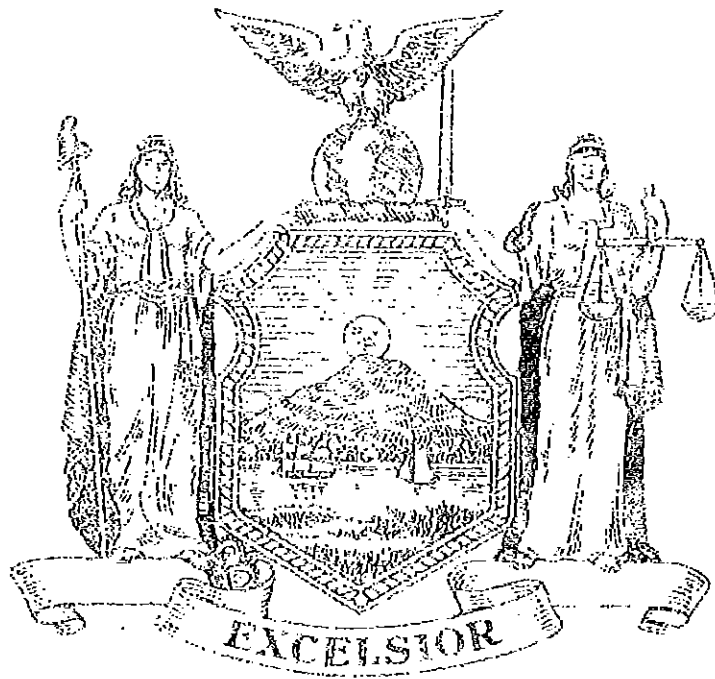
This is to certify that this document is a true and complete copy of a record on file in the New York State Department of Motor Vehicles, Albany, New York.

*David J. Warts*

COMMISSIONER OF MOTOR VEHICLES

32 905 907-511 526  
32 905 907-511 526





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*David J. Swarts*

COMMISSIONER OF MOTOR VEHICLES



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## FOR IMMEDIATE DELIVERY

FROM: Lucille A. Fontana, Esq.	PAGES: 7	DATE: December 7, 2012
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TO:	PHONE NUMBER:	FAX NUMBER:
Hon. Edgardo Ramos United States District Judge United States Courthouse	(914) 390-4291	(914) 390-4298
CC:		
Christopher R. Ingrassia, Esq. LAW OFFICE OF THOMAS K. MOORE	(914) 285-8500	(914) 285-8510

## MESSAGE:

Re: *Femmel v. Elevado et al*  
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